IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 34158 of 2004(N)

OS.197/2003 of MUNSIFF COURT, VADAKARA

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PETITIONER:

KOYLANKANDY KUMARI AMMA,
W/O.PADMANABHA KURUP, AGED 56 YEARS,
RESIDING AT PARATHEENTAVIDA, NADAKUTHAZHA
AMSOM AND DESOM, VATAKARA TALUK.

BY ADV. SRI.N.L.KRISHNAMOORTHY
SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA
SMTJ.N.NISHA

RESPONDENTS:

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1. PUTHIYOTTIL BINESH, S/O.BALAKRISHNAN,
AGED 22 YEARS, NADAKUTHAZHA AMSOM AND DESOM,
VATAKARA TALUK.

2. KOLLANTE KANDIYIL RAJAN,
S/O.KORU, AGED 38 YEARS, NADAKUTHAZHA AMSOM
AND DESOM, VATAKARA TALUK.

3. KOLLANTE KANDIYIL DINESH,
S/O.KANNAN, AGED 40 YEARS, NADAKUTHAZHA AMSOM
AND DESOM, VATAKARA TALUK.

4. PUTHIYOTTIL BALAKRISHNAN, S/O.RAMAN
NAIR, AGED 42 YEARS, NADAKUTHAZHA AMSOM AND
DESOM, VATAKARA TALUK.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.34158/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT DATED 7.4.1993 IN O.S. NO.1/92 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P2: COPY OF THE PLAINT IN O.S. NO.197/03 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P3: COPY OF THE WRITTEN STATEMENT IN O.S. NO.197/03 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P4: COPY OF HE COMMISSIONER'S REPORT IN O.S.197/03 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P5: COPY OF THE PLAINT IN OS 63/04 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P6: COPY OF THE WRITTEN STATEMENT IN O.S.63/04 ON THE FILE OF THE MUSNIFF COURT, VATAKARA.

EXT.P7 & 7A: COPY OF THE AFFIDAVIT AND PETITION FILED IN I.A. NO.2640/04 IN OS 63/04 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

EXT.P8: COPY OF THE ORDER DATED 2.11.2004 IN 2640/04 IN OS 63/04 ON THE FILE OF THE MUNSIFF COURT, VATAKARA.

/TRUE COPY/

P.A. TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 34158 of 2004

Dated this the 16th day of July , 2007

JUDGMENT

Even though there is at least partial identity between the parties in the two suits (O.S.63/2004 & O.S. No.197/2003), which are suits for damages and injunction respectively, I am not inclined to accept the argument of Sri.K.Lakshminarayanan, the learned counsel for the petitioner that both the suits are liable to be tried jointly since the decision in the damage suit will to a considerable extent rest on the decision in the injunction suit. Ext.P8 order dismissing the joint trial application cannot be faulted and at any rate applying the yard sticks, which are applicable, for the exercise of supervisory jurisdiction under Article 227 of the Constitution.

2. Nevertheless even as I approve Ext.P8, I direct the learned Munsiff to defer the trial and disposal of O.S.63/2004 till such time as O.S.197/2003 is tried and disposed of. The learned

Munsiff is directed to special list O.S.197/2003, the suit for injunction, for trial in the earliest available special list and dispose of that suit at the earliest and at any rate within three months of receiving a copy of this judgment. Trial of O.S.63/2004 will be taken up only after O.S. 197/2003 is tried and disposed of.

The writ petition is disposed of as above.

PIUS C. KURIAKOSE,
JUDGE.

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